Division Bench

IN THE HIGH COURT OF (CHHATTISGARH) AT BILASPUR

MISC. APPEAL (C) No. 350 /2006.

APPELLANTS CLAIMANT : 1) Ram Pravesh Jaiswal, S/o Late Shri Guput Jaiswal, aged about 36 Years, R/o. Gyatri Mandir, Shivdham, Pulgaon Chowk, Durg, Distt.- Durg (C. G.)

2) Smt. Guljari Devi, W/o. Late Shri Guput Jaiswal, aged about 50 years, R/o. Village Kaser, Tahsil-Bhamua, District Kaimur (Bihar)

P.R. No. 24-10-06 Presented by Shri Jr. Advocate Group-9 on 29/9/06

V E R S U S

RESPONDENTS :1) Gopal Prasad Shrivas, S/o. Shri Surendra Kumar Shrivas, aged about 32 years, R/o. Qr. No. 10-B, Street No. 36, Sector-4, Bhilai, District Durg (C. G.)

2) The Branch Manager, National Insurance Company Limited Gil Complex, Gurudwara Road, Durg (C. G.).

MEMO OF MISC. APPEAL(C) U/S 173 OF THE MOTOR VEHICLE ACT 1988.

XI-HC-78

(21)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.(C)350/ **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Division Bench: -

Hon'ble Mr. L.C. Bhadoo, Ag. CJ &
Hon'ble Mr. Dhirendra Mishra, J.

2-1-2007

Mr. Jitendra Gupta, counsel for the appellants.

Heard.

I.A.No.3473/2006 is allowed. Documents are taken on record.

This is the claimants' appeal against the award dated 5th May, 2006, passed by the 4th Additional Motor Accident Claims Tribunal, Durg, in Claim Case No.58/2005, whereby learned Tribunal after assessing the income of the deceased as Rs.3,000/- per month assessed 2/3rd dependency of the claimants, thereby, dependency to the extent of Rs.24,000/- has been assessed and multiplier of 5 has been applied assessing the age of the deceased as 60-65 years.

We have perused the impugned award and the record. The age of the deceased has been rightly assessed by the Tribunal. Similarly, the income of the deceased has also been rightly assessed.

Learned counsel for the appellants submits that income of the deceased through agriculture has not been considered by the Tribunal.

In the first instance, no proof regarding the agricultural income was filed by the appellants. Moreover, claimant No.1 is a major aged about 36 years and therefore, if any agricultural income was there, then he can earn income by doing agricultural activities in the agricultural field.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.(C).350/ **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Therefore, we are of the considered opinion that the award passed by the Tribunal is just and fair and there is no infirmity in the award impugned, as such, the appeal is devoid of merit, same is liable to be dismissed and it is hereby dismissed. **Sd/-** **Acting Chief Justice**	**Sd/-** **Dhirendra Mishra** **Judge**

Soma